

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Geraldine A. Trice,

Plaintiff

v.

United States Department of Justice,

Defendant

Case No.: 2:21-cv-0407-JAD-EJY

**Order Adopting Report
and Recommendation and Dismissing
Action with Leave to File a Proper
Complaint by August 20, 2021.**

[ECF Nos. 5, 6, 12]

The magistrate judge has screened plaintiff Geraldine A. Trice’s pro se pleading in this case and recommends that I dismiss it with leave to amend because that pleading, “styled as a motion, is over 500 pages long when considered with attachments,” and “[t]here is no identified cause or causes of action and no prayer for relief” as the Federal Rules of Civil Procedure require.¹ “Based on” this pleading, the magistrate judge has concluded that “it is impossible for the Court to reasonably decipher what” claims the plaintiff is attempting to assert or what relief she is seeking, and it “does not provide fair notice to defendants of any claim that may be defended.”²

Trice confusingly objects to this recommendation with various references to the federal government’s immunity from suit and states that “Sovereign Immunity and 18 U.S.C. 3771(d)(6) exposes the magistrate’s disposition while purported to be a judicial act, an obstruction of justice, in violation of 18 U.S.C. 1503, under circumstances constituting a fraud on the court.”³ She suggests that, if this court “ratifie[s]” this recommendation, it would “obstruct the court from

¹ ECF No. 5 at 2.

² *Id.* at 3.

³ ECF No. 10 at 2.

1 jurisdiction to entertain the Crime Victim’s Motion by fraudulent representation that the case
2 brought by the Motion is really a Federal complaint for damages.”⁴

3 Trice’s objections are overruled. As Rule 2 of the Federal Rules of Civil Procedure
4 explains, “[t]here is one form of action—the civil action,” and Rule 3 elaborates that “[a] civil
5 action is commenced by filing a complaint with the court.” The magistrate judge accurately
6 summarized that Trice did not file a complaint with the court as the Rules require; she filed a
7 motion.⁵ And a motion is not a proper way to commence a civil case. This is not merely an
8 issue of form over substance, either. Even if this court were to liberally construe the motion as a
9 complaint, the filing lacks any of the necessary components of a complaint. For example, though
10 74 pages long, it lacks a statement establishing this court’s jurisdiction over this matter⁶ and the
11 parties or any cause of action for which relief may granted. It absolutely lacks “a short and plain
12 statement of the claim showing that the pleader is entitled to relief,”⁷ and much of the filing is
13 simply nonsensical.

14 IT IS THEREFORE ORDERED that **plaintiff’s objections [ECF Nos. 10, 11] are**
15 **OVERRULED** and the Report and Recommendation **[ECF No. 5] is ADOPTED**. This action
16 is DISMISSED with leave file a complaint by August 20, 2021. Trice is advised to carefully
17 consult the Federal Rules of Civil Procedure, particularly Rule 8, when drafting her complaint.
18 In such a complaint, she must begin with “a short and plain statement of the grounds for the
19 court’s jurisdiction.”⁸ She must clearly identify each of the defendants and the legal theory for

21 ⁴ *Id.*

22 ⁵ ECF No. 1-1.

23 ⁶ *See* Fed. R. Civ. P. 8 (a)(1).

⁷ Fed. R. Civ. P. 8 (a)(2).

⁸ Fed. R. Civ. P. 8 (a)(1).

1 which this court can award relief. And she must clearly identify the claims for relief against each
2 defendant in a manner sufficient to allow them to prepare a response. Each claim should be
3 separated out and individually titled (e.g., "First Claim for Relief"). A sample complaint can be
4 found on the court's website at [https://www.uscourts.gov/forms/pro-se-forms/complaint-civil-](https://www.uscourts.gov/forms/pro-se-forms/complaint-civil-case)
5 case. **If plaintiff does not file a proper complaint by August 20, 2021, this case will be**
6 **dismissed and closed.**

7 IT IS FURTHER ORDERED that plaintiff's motions for entry of default and default
8 judgment [ECF Nos. 6, 12, 13] are **DENIED** as there is no complaint or claims in this case for
9 any defendant to have defaulted on.

10 Dated: July 21, 2021

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12 U.S. District Judge Jennifer A. Dorsey
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